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20. (Once Amended) A patch bag, comprising:

(A) a bag having an open top, a first side-seal, a second side-seal, and a seamless bottom edge; and

(B) a single patch which covers a portion of the seamless bottom edge of the bag, at least a portion of an outside surface of a first lay-flat side of the bag, and at least a portion of an outside surface of a second lay-flat side of the bag, the single patch having a length of from about 101 to 200 percent of a length of the bag, wherein the bag comprises a first film and the patch comprises a second film, and the first and second side seals are through the first film but not through the second film and the patch does not extend to either the first side seal or the second side seal.

REMARKS

The Pending Claims, and the Amendments to the Specification and Claims

Applicants note that with the entry of the above amendments, Claims 1-7, 18, 20, and 22-35 are pending (of which only Claims 1, 18, and 20 are independent claims), each of these claims being directed to a patch bag, with Claims 8-17, 19, and 21 having been withdrawn from consideration as directed to a non-elected invention.

The amendment to Page 23 of the specification is to correct an obvious typographical error.

Each of independent Claims 1, 18, and 20 have been amended to recite the patch as not extending to the seals, and reciting the patch as covering a portion of a particular edge of the bag. Exemplary support for these amendments can be found in various figures as well as the accompanying portion of the specification describing the figures. Figures 1, 2A and 2B show a patch bag in accordance with Claim 1, and illustrate the patches not extending as far as bottom seal 26 or side seal 28. See Page 21 lines 20 Page 22 line 4. Figures 11 and 12 illustrate a patch bag in accordance with Claim 18, and illustrate a patch which does not extend to the backseamed seal 278. See Page 33 lines 14-23. Figures 3, 4A and 4B show a patch bag in accordance with Claim 20, and illustrate the patches not extending as far as either first side seal 46 or second side seal 50. See Page 22 lines 11-19

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In addition, each of the independent claims has been amended to recite the patch as covering *a portion* of the particular edge recited in the claim. This is because the patch, not extending to the seal, cannot cover the entire edge, but rather only a portion of the edge. Each of Figures 1, 3, and 11, and associated portions of the specification (see paragraph above), disclose the patch as covering only a portion of the edge, so that the patch does not extend as far as the seal.

Accordingly, there is support for the amendments to each of the independent claims, and the amendments contain no new matter.

The Claimed Invention is Patentable over COMPTON

The claims are patentable over COMPTON because COMPTON does not teach or suggest a patch bag. All of Applicants' claims are not only directed to a patch bag, but to a patch bag in which there is a particular relationship between the patch film and the edges and seals of the film from which the bag is constructed. COMPTON does not disclose, teach, or suggest Applicants' particular combination of features recited in each of independent Claims 1, 18, and 20, as is apparent for the reasons set forth in the discussion of BRADY et al, below.

The Claimed Invention is Patentable over BRADY et al

The claims are patentable over BRADY et al (WO 96/00688), including specifically the embodiments of Figures 9 and 11 of BRADY et al.¹ More particularly, the claims are patentable over the patch bag of Figures 8, 9, and 10 of BRADY et al because each of independent claims 1, 18, and 20 recite the patch as covering a portion of an edge of the bag. In the patch bag of Figures 8, 9, and 10 of BRADY et al, there is not a patch which covers any portion of the bottom edge of the bag. Rather, in the patch bag of Figures 8, 9, and 10 of BRADY et al, two patches extend downward and outward of the bottom edge of the bag, with no single patch extending to cover the bottom edge of the bag, as required by Applicants' claims. BRADY et al has no teaching or suggestion that the patch bag of Figures 8, 9, and 10 covers the bottom edge of the bag. Rather, in Figures 8, 9, and 10,

BRADY et al teaches to allow both patches to extend *outward* of the bottom edge, with neither patch actually covering the bottom edge of the bag. This issue is analogous to the issue decided by the Board of Appeals in U.S.S.N. 08/668,503 (Appeal No. 98-1647) and U.S.S.N. 08/459,880 (Appeal No. 97-4002).² In those appeals, both of which involved patch bag inventions, it was decided that:

“Hence, even if the patch of Ferguson were extended up to or past the bottomline of the bag as proposed by the examiner, it is not apparent to us that the extended patch would necessarily “cover” at least a segment of the bottomline, as called for in each of the independent claims on appeal.” [Decision on Appeal, Appeal No. 1998-1647 in USSN 08/668,503, Page 8 lines 6-11]

Thus, it is clear that the Board of Appeals has decided that patches which extend past the edge of the bag do not actually cover the edge of the bag. To “cover” the edge, the patch must extend *over* the edge itself. In the above-identified appeal, Applicants argued that extending the patch past the bag edge actually does not cover the bag edge. The above-quoted excerpt from the Board decision indicates that the Board agrees with Applicants position on this point. Thus, the patch bag of Figures 8, 9, and 10 of BRADY et al does not teach or suggest a patch bag in which a patch covers an edge of the bag. Moreover, since BRADY et al uses two patches together which extend past the edge of the bag, there is no need to provide a patch which actually covers the edge of the bag.

Turning next to the patch bag of Figures 11 and 12 of BRADY et al, it is clear that this patch bag has a patch which extends to, and even past, both the side seal of this bag as well as the bottom seal of this bag. This patch extends to and even past the seal in order to provide the full width coverage of the bag, i.e., providing patch coverage which extends completely around the bag, which is a principal objective of BRADY et al. See the Abstract of BRADY et al. In stark contrast, each of Applicants’ claims requires that the edges of the patch (i.e., all edges of the patch) not extend as far as a seal. Since the patch bag of Figures 11 and 12 of BRADY et al teaches to extend the patch to and even past the seal, it is clear that BRADY et al is not teaching or suggesting Applicants’ claimed patch bag. Moreover,

¹ Figures 8, 9, and 10 of BRADY et al should be considered together, as they all pertain to the disclosure of one particular patch bag; Figures 11 and 12 of BRADY et al should also be considered together.

² See accompanying Exhibits A and B, each of which are entitled “Decision on Appeal.”

since BRADY et al teaches to provide full width patch coverage, the teachings of BRADY et al are in conflict with modifying the patch bag of Figures 11 and 12 so that the patch would not extend over the side seal.

In summary, Applicants contend that there is no teaching or suggestion in BRADY et al to provide a patch bag having Applicants' recited combination of features: (1) a patch which covers an edge of the bag, with (2) a patch having edges which do not extend to any seal on the bag. Rather, BRADY et al teaches (a) to extend the patch to and even past the seal (Figs 11 and 12) or (b) to provide a combination of patches neither of which cover the actual edge of the bag, in order to extend patch coverage all the way around the bag. Applicants' invention, as now claimed, is patentable over BRADY et al.


CONCLUSION

Reconsideration of the patentability of the pending claims is respectfully requested, in view of the amendments and arguments set forth above.

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Attachments: Exhibit A (Decision on Appeal)
Exhibit B (Decision on Appeal)